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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/048,222	01/29/2002	Kazuyuki Miya	L9289.02111	3381
24257	7590	11/30/2005		
STEVENS DAVIS MILLER & MOSHER, LLP 1615 L STREET, NW SUITE 850 WASHINGTON, DC 20036			EXAMINER PIZARRO, RICARDO M	
			ART UNIT 2662	PAPER NUMBER

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/048,222

Applicant(s)

MIYA, KAZUYUKI

Examiner

Ricardo Pizarro

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2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/10/02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1-5 are objected to because of the following informalities and for better reading of the claim it is suggested to applicant;

In claim 1 lines 1-2 replace "whereby, in a radio communication system that has " with –comprising: -.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4 and 5, are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2004/0198359 ( Uchida) in view of patent No. 5,805,581 ( Uchida).

Regarding claim 1, Uchida '359 discloses a Mobile communication system,, comprising a plurality of systems including a CDMA FDD system and a CDMA TDD ( Paragraph 0024 lines 3-4) , one or other of said CDMA-FDD system and said CDMA-TDD system includes a channel with a high transmission rate ( all system in paragraph 0024 are used for high data transmission rate).

Uchida'359 does not specifically disclose a mobile station selecting a system to which connection is desired from a plurality of systems and performs communication with the selected system.

However Uchida'581 discloses a mobile communication system comprising a plurality of systems wherein a mobile station selects one of the systems and performs communication with the selected system( In Fig. 106 mobile station selects CDMA/TDD system and performs communication with it, col 49 lines 26-30)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Uchida '359 by providing ways for a mobile station to select an specific system and perform communication with the system in order have in a system that uses multiple access schemes allow a user to select a system according to the user's priority.

The motivation to do so is to have the capability of assigning priorities to access methods as a result of consideration of priority assignments to each mobile station in the system.

Regarding claim 2, wherein said CDMA-FDD system and CDMA-TDD system are controlled by a common control station ( i.e. MSC 27 for BS 23 and 24) and are connected to a telephone network via an exchange ( switching center 13 and PTN 12 in Fig. 2).

Regarding claim 4, wherein it is possible to perform communication with said CDMA-FDD system and CDMA-TDD system simultaneously on different channels

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( since both system CDMA/TDD and CDMA/FDD are used for both high speed and low speed data transmission -see paragraphs 24 and 28 line 5-, communication can be carried simultaneously in both systems for the respective services)

Regarding claim 5, Uchida '581 discloses that the mobile station selects a system taking into account the communication environment ( col 28 lines 48-50)

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 2004/0198359 ( Uchida) in view of patent No. 5,805,581 ( Uchida) and in further review of US patent no. 6,865,169 ( Quayle).

Uchida '359 and '581 do not disclose one of the system being connected to the Internet via router, as in claim 3.

However Quayle discloses a Wireless Internet access system using spread spectrum and Internet Protocol having a system of a plurality of system connected to the Internet via Router ( Fig. 1, col 4 lines 34-35 and 45-48)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Uchida's system by providing the Internet connection means as disclosed by Quayle in order to have a wireless Internet access system that is capable of operating in different frequency bands.

The motivation to do so is to provide user with high speed access to the Internet.

5. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 5,805,581 ( Uchida). in view of US 2004/0198359 ( Uchida).

Uchida '581 discloses a Mobile communication system using various multiple access methods, comprising a terminal apparatus including selecting means for selecting a system to be connected to based on information monitored by said monitoring means and a connection request from the station itself ( In Fig. 7 Processor 30 carries different multiple access methods and controller 54 selects a method according to system needs, communication capacity or given communication environment , col 28 lines 44-49) ; and communication connecting means for performing communication connection to a base station of a system selected by said selecting means.( mobile station must be capable of transmitting and receiving from either system , col 52 lines 18-19).

Uchida'581 does not disclose including a CDMA/FDD and a CDMA /TDD system, neither discloses monitoring means for monitoring downlink signals from each system in a radio communication system that has a plurality of systems, as in claim 6.

However Uchida'359 discloses a Mobile communication system including a CDMA/FDD and CDMA /TDD as in claim 6.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Uchida'581 by providing to the system additional multiple access systems such as CDMA/FDD and a CDMA/TDD system as disclosed in Uchida '359 in order for the user have a broader variety of choices in the system. Regarding the monitoring means for monitoring downlink signals from each system in a radio communication system that has a plurality of systems, it would have been obvious that the Uchida '581 system had to monitor the downlink signals in order

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to be able to select the downlink signal that would have met the system needs at that time.

The motivation to do so is to provide a mobile system in which various access methods may be selected according to the user's priority.

Regarding claim 7, Uchida '581 discloses that the mobile station selects a system taking into account the communication environment ( col 28 lines 48-50)

***Allowable Subject Matter***

6. Claim 8 is allowed.

***Conclusion***

**7. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(571) 273-8300

(for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to 220 South 20<sup>th</sup> Street, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Va 22202 (Customer Window).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ricardo Pizarro** whose telephone number is (571) 272-


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3077. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:30 PM. .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Hassan Kizou** can be reached on (571) 272-3088

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

11/24/05  
Ricardo Pizarro



HASSAN KIZOU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600